



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

SEP 05 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Carlos L. Garcia  
President  
Mac Development Corporation  
URB. Belisa  
#10 Calle Detroit  
San Juan, PR, 00926  
&  
419 Ponce De Leon Ave.  
Suite 112  
URB Floral Park  
San Juan, PR, 00917

Re: **Request for Information, Pursuant to Section 308(a) of the Clean Water Act,  
33 U.S.C. § 1318(a) for Bahia Park Industrial Park Development**

Dear Mr. Garcia:

Pursuant to Section 308(a)(A) of the Clean Water Act, 33 U.S.C. § 1318(a)(A), the U.S. Environmental Protection Agency ("EPA"), Region 2 is hereby requiring information with respect to a fill discharge on a parcel of land, tax parcel 039-000-009-55, contained within Bahia Park Industrial Park Development (the "Site") in Palmas Ward, Municipality of Cataño, PR. The referenced parcel of land is located on the west side of the Site. Please see Exhibit A.

A dirt parking lot for trucks was created on the street leading into Bahia Park Industrial Park from PR-869, directly across from the Ponce Caribbean Distributors, Inc. (North Distribution Center, Building #1, Road 869, Palmas Ward, Municipality of Cataño, PR). Please see Exhibit B. This dirt parking lot is part of your formerly proposed Bahia Park Industrial Park property.

The EPA determined that this fill discharge appears to be partly placed into an area identified by you as wetlands in a 2006 delineation. As this matter may involve the filling of wetlands that would fall within the purview of the Clean Water Act Section 404, EPA is hereby formally requesting information in this matter. We are making this request pursuant to Section 308 of the CWA as described in the "Statutory Authority and Directions for Response," below. The specific information which EPA requests is listed in an attachment to this letter titled "Clean Water Act Section 308 Information Request for Carlos Garcia, regarding property located at Interior of PR-869, Bahía Industrial Park, Cataño, Puerto Rico". You are legally required to respond to this request within thirty (30) days of receipt of this letter so that EPA may complete a timely investigation to determine whether Section 404 authorization was required for fill material discharged at the property. Please provide all of the information listed in the attachment, as directed below.

### Statutory Authority and Directions for Response

The CWA, 33 U.S.C. §1291 et seq., confers jurisdiction which covers "navigable waters" which are defined as "waters of the United States" (33 U.S.C. §1362(7)). Section 301(a) of the CWA, 33 U.S.C. §1311(a), prohibits the discharge of pollutants except as in compliance with Sections 301, 302, 306, 307, 318, 402, and 404 of the CWA. Section 404 of the CWA, 33 U.S.C. §1344, states that permits may be required from the Department of the Army for the discharge of dredged or fill material into navigable waters at specified disposal sites. Dredged or fill material constitute "pollutants" within the meaning of Section 502(6) of the CWA, 33 U.S.C. §1362(6), and the discharge of such material in waters of the United States constitutes a "discharge of pollutants" as defined by Section 502(12) of the CWA, 33 U.S.C. §1362(12). At the time of the above referenced activity, and continuing thereafter, therefore, any discharge of dredged or fill material into waters of the United States that may be present at the property located at Interior of PR-869, Bahía Industrial Park, Cataño, Puerto Rico, without prior authorization from the Department of the Army pursuant to Section 404, may constitute a violation of Section 301(a) of the CWA, 33 U.S.C. §1311(a).

Section 308(a)(A) of the Clean Water Act, 33 U.S.C. § 1318(a)(A), authorizes EPA to require reports from any person who owns or operates a "point source" in order to carry out the objective of the Act. EPA has determined that you are the owner/operator of a point source, as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14), and that requiring you to provide this information to EPA helps meet the objective of the law to restore and maintain the integrity of the Nation's waters. If you do not comply with the terms of the information request, EPA is authorized to either seek the assessment of administrative penalties or the imposition of judicial penalties for your violation of the information request.

Please be informed that you may, if you so desire, assert a business confidentiality claim covering all or part of the information being requested. The claim may be asserted by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions or otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by EPA.

If you desire confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state. Information covered by such claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Subpart B, Part 2, Chapter I of Title 40 of the CFR (40 CFR 2.201 et seq.). If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

This information is not subject to the approval requirements of the Paperwork Reduction Act of 1989, 44 U.S.C. §3501 et seq.

Should you have any questions regarding this information request, please contact Mr. David Pohle of my staff at (212) 637-3824. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. P. Balla", with a long horizontal flourish extending to the right.

Richard P. Balla, Chief  
Watershed Management Branch

Enclosures

cc: Mr. Robert Halbert – U.S. Army Corps of Engineers, Jacksonville District

